

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY



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In re :  
20230930-DK-BUTTERFLY-1, INC. f/k/a/ :  
Bed Bath & Beyond, Inc., et. al., :  
Debtors. :

\_\_\_\_\_  
MICHAEL GOLDBERG as :  
Plan Administrator for 20230930-DK- :  
BUTTERFLY-1, INC. f/k/a :  
Bed Bath & Beyond Inc., :  
Plaintiff, :

vs. :

INTERNAL REVENUE SERVICE, :  
Agency of the United States of America, :  
Defendant. :

Chapter 11  
Order Filed on November 27, 2024  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey  
Case No. 23-13359 (VFP)

Adv. Pro. No. 24-01533 (VFP)

**ORDER REGARDING UNITED STATES' MOTION TO DISMISS**

The relief set forth on the following pages, numbered two (2) through (2), is **ORDERED**.

**DATED: November 27, 2024**

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*Vincent F. Papalia*  
Honorable Vincent F. Papalia  
United States Bankruptcy Judge

This matter having come before the Court on the United States' Motion to Dismiss under Federal Rule of Bankruptcy Procedure 7012 (the "Motion to Dismiss"); and the Court having considered the submissions of the parties and the arguments of counsel; and due notice having been given; and for the reasons set forth on the record at the hearing held on November 13, 2024; and other good cause shown; the Court hereby **ORDERS** as follows:

1. The Court denies with prejudice the Motion to Dismiss on the grounds of lack of subject matter jurisdiction under Fed. R. Bankr. P. 12(b)(1); and
2. The Court denies without prejudice the Motion to Dismiss on the grounds of failure to state a claim under Fed. R. Bankr. P. 12(b)(6); and
3. The Court will treat the remaining portions of the Motion to Dismiss as a motion for summary judgment under Rule 56, as permitted and provided by Fed. R. Bankr. P. 7012(d); and
4. The parties are directed to meet and confer on a pretrial order that establishes a discovery schedule, including (without limitation) as to any factual and/or expert discovery and may address other related pretrial matters. If the parties cannot agree on such a pretrial order, either party may contact the Court and request a conference to address any open issues.